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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,025	03/10/2004	Wataru Tazoe	503.43626X00	2138
20457 7590 02/15/2008 ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-3873			EXAMINER HAND, MELANIE JO	
			ART UNIT 3761	PAPER NUMBER
			MAIL DATE 02/15/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/796,025	Applicant(s) TAZOE ET AL.	
	Examiner Melanie J. Hand	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/23/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08).
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 22, 2007 has been entered.

Response to Arguments

2. Applicant's arguments filed August 22, 2007 have been fully considered but they are not persuasive. It appears that applicant's arguments are a nearly verbatim repetition of arguments presented in response to the non-final action mailed December 8, 2006. The Office has previously responded to these arguments in the final action mailed May 22, 2007 and the advisory action mailed October 12, 2007. Applicant has since presented no new or persuasive arguments, therefore the rejections of claims 18-24 under 35 U.S.C. 103 are maintained.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawrence et al (U.S. Patent No. 5,911,222) in view of Conkling et al (U.S. Patent No. 5,002,541).

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With respect to **claims 18,22**: Lawrence teaches an automatic urine disposal device comprising a urine receptacle 10 having an outer sheet 28 having a substantially rectangular shape and having a U-shaped cross-section (Fig. 2a) (Col. 5, lines 65-67), having a width at the middle portion in the longitudinal direction being narrow, so that it is shaped like an hourglass (Fig. 1), and having a gather provided along its periphery at cut out areas 15,16, formed from the backsheet 28, which is a liquid-impermeable and non-breathable thin sheet made of soft flexible materials, and accommodating a urine absorbent material 24 (Col. 6, lines 58-65) for storing urine; and a top sheet 21 formed as a liquid-permeable non-woven fabric, covering a top surface of said urine absorbent material 24 (Fig. 2a) with said outer sheet and keeping said urine absorbent material highly airtight as well as said outer sheet 28, a sealed urine tank 113 (Fig. 10); interface device 17 having an entrance zone for liquid entering through a porous membrane from absorbent material 24, said entrance zone with said porous material considered herein to function as a drainage port. (Col. 6, lines 1-8); a urine drainage tube 110 for discharging urine through said urine drainage port from said urine absorbent material 24 to said urine tank 113, and made of soft flexible materials (as evidenced by Lawrence's teaching that said drain tube is capable of being hermetically sealed, i.e. it is deformable and thus flexible (Col. 6, lines 8-10); a vacuum pump 112 for decreasing air pressure in said urine tank 113; wherein urine is absorbed into said urine absorbent material 24 through a hole 20 on said top sheet upon wearer's urination, and said urine is discharged from said urine absorbent material 24 through said urine tube 110 to said urine tank 113.

Lawrence does not teach a urine sensor. Conkling teaches a urine collecting device 10 having a urine sensor 92 provided along urine drainage tube 96 and being electrically conductive in responsive to detecting a urination in the vicinity of one end of a urine drainage port 94, said urine sensor 92 detecting wearer's urination and initiating vacuum pump 12. ('541,

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Col. 4, lines 35-63, Col. 5, lines 36-45) Conkling teaches that the sensor operates to activate a pump 12 for draining the urine from vessel 78, which would allow for increased storage area for incoming urine, therefore it would be obvious to one of ordinary skill in the art to modify the device of Lawrence so as to contain a urine sensor that activates the pump taught by Lawrence to drain said receptacle as taught by Conkling.

5. Claims 19-21, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawrence et al ('222) in view of Conkling et al ('541) as applied to claims 18 and 22 above, and further in view of Reed et al (WO 96/08223).

With respect to **claim 19**: Top sheet 21 is made of non-woven fabric, i.e. polypropylene and polyester blend or cotton, and therefore does not teach cotton and said blend. Conkling also does not teach a top sheet comprised of cotton and polyester/polypropylene blend. Reed teaches a textile absorbent layer suitable for a topsheet comprising a blend of cotton and polypropylene and polyolefin polyester. ('223, Page 26, lines 13-25) Reed teaches that this material is spynosorbent, i.e. its absorbent capability varies with ambient humidity in such a way that when the humidity is increased during wear, the breathability is greater than when the article is in a dry state, preventing bacterial formation by buildup of excess exudate (Page 6, lines 1-11), thus it would be obvious to one of ordinary skill in the art to modify the topsheet taught by the combined teaching of Lawrence and Conkling so as to be comprised of the textile layer film taught by Reed to prevent bacterial formation by buildup of excess exudate.

With respect to **claims 20,21,23,24**: The combined teaching of Lawrence and Conkling does not teach a breathability for said top sheet. Since Reed teaches the claimed blend of materials,

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the combined teaching of Lawrence and Conkling and Reed inherently teaches moist and dry breathabilities within the claimed ranges. When the structure or composition recited in the reference is substantially identical to that of the claims of the instant invention, claimed properties or functions are presumed to be inherent (MPEP 2112-2112.01). A prima facie case of obviousness has been established when the reference discloses all the limitations of a claim except for a property or function and the examiner can not determine whether or not the reference inherently possesses properties that render obvious the claimed invention but has a basis for shifting the burden of proof to applicant, as per *In re Fitzgerald*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
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January 4, 2008

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Tatyana', is written over the printed name and title of the Supervisory Primary Examiner.